IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	8:05CR233
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
GILBERTO VERDUGO GUTIERREZ,	)	
	)	
Defendant.	)	

This matter is before the court on the motion to continue by defendant Gilberto Verdugo Gutierrez (Gutierrez) (Filing No. 21). Gutierrez seeks a continuance of the suppression hearing scheduled for September 11, 2007, to November 6, 2007. Gutierrez's counsel represents that additional discovery and subpoenas are required for the suppression hearing. During a telephone conference with counsel on August 31, 2007, counsel for the government had no objection to the motion. Gutierrez has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Gutierrez consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 20). Upon consideration, the motion will be granted.

IT IS ORDERED:

1.   Gutierrez's motion to continue the suppression hearing (Filing No. 21) is granted.

2.   The hearing on Gutierrez's motion to suppress (Filing No. 16) is re-scheduled for **9:00 a.m. on November 6, 2007,** in Courtroom No. 7, Second Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska. Gutierrez must be present for the hearing.

3.   The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **September 11, 2007 and November 6, 2007,** shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 11th day of September, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge